

# OFFICE OF THE ATTORNEY GENERAL

81-00599



THIS OPINION IS MODIFIED TO THE  
EXTENT THAT IT IS IN CONFLICT  
WITH OPINION TO HONORABLE  
WILLIAM C. YOUNG UNDER DATE OF  
4/17/98, OPINION NO. 98-00132.

**CHARLES A. GRADDICK**  
ATTORNEY GENERAL  
STATE OF ALABAMA

SEP 24 1981

ADMINISTRATIVE BUILDING  
64 NORTH UNION STREET  
MONTGOMERY, ALABAMA 36130  
AREA (202) 634-6130

JAMES R. SOLOMON, JR.  
DEPUTY ATTORNEY GENERAL

WILLIAM M. BEKUNE, JR.  
EXECUTIVE ASSISTANT

WALTER S. TURNER  
CHIEF ASSISTANT ATTORNEY GENERAL

JANIE NOBLES  
ADMINISTRATIVE ASSISTANT

Honorable David H. Williams  
Executive Director  
Alabama Board of Pardons and Paroles  
750 Washington Avenue, Suite 312  
Montgomery, AL 36130

Board of Pardons and Paroles -  
Administrative Procedures Act -  
State Agencies

The Alabama Board of Pardons and  
Paroles is included within those  
agencies governed by the provisions  
of the Alabama Administrative  
Procedure Act.

Dear Mr. Williams:

The Attorney General is in receipt of your request for an  
opinion dated September 11, 1981, in which you pose the following  
question:

Is the Alabama Board of Pardons  
and Paroles governed by provisions  
of Act No. 81-855, known as the  
Alabama Administrative Procedure  
Act.?

Act No. 81-855 (Regular Session 1981) better known as the  
Alabama Administrative Procedure Act provides in Section 3(1) for  
the exclusion of certain agencies. The Alabama Board of Pardons

Honorable David H. Williams  
Page Two

is not included within the excluded agencies. The Alabama Administrative Procedure Act provides in Section 2:

The purposes of the Alabama Administrative Procedure Act are: to provide legislative oversight of powers and duties delegated to administrative agencies; ....

The Legislature under the provisions of Amendment XXXVIII has the power and the authority over pardons, paroles, remissions of fines and forfeitures and the Legislature has in turn given this power to the Board of Pardons and Paroles. Therefore, the Alabama Board of Pardons and Paroles is clearly covered by the provisions of the Administrative Procedure Act which provides the Legislature with oversight of powers and duties delegated to administrative agencies.

Section 2 of the Administrative Procedures Act in paragraph 4 provides:


Every state agency having express statutory authority to promulgate rules and regulations shall be governed by the provisions of this act and any additional provisions required by statute, ...

The Alabama Board of Pardons and Paroles is, by statute, (Code of Alabama 1975, §15-22-37) vested with statutory authority to adopt and promulgate rules and regulations on matters within its jurisdiction.

It is therefore the opinion of the Attorney General, based upon the above enumerated reasons, that the Alabama Board of Pardons and Paroles is an agency covered by Act No. 81-855 (Regular Session 1981).

Sincerely yours,

CHARLES A. GRADDICK  
Attorney General  
By-



RICHARD N. MEADOWS  
Assistant Attorney General

CAG/RNM/mr